

§ 1-311. Against the person.

If the action is one in which the defendant might have been arrested, an execution against the person of the judgment debtor may be issued to any county within the State, after the return of an execution against his property wholly or partly unsatisfied. But no execution shall issue against the person of a judgment debtor, unless an order of arrest has been served, as provided in the Article Arrest and Bail, or unless the complaint contains a statement of facts showing one or more of the causes of arrest required by law, whether such statement of facts is necessary to the cause of action or not. Provided, that where the facts are found by a jury, the verdict shall contain a finding of facts establishing the right to execution against the person; and where jury trial is waived and the court finds the facts, the court shall find facts establishing the right to execution against the person. Such findings of fact shall include a finding that the defendant either (i) is about to flee the jurisdiction to avoid paying his creditors, (ii) has concealed or diverted assets in fraud of his creditors, or (iii) will do so unless immediately detained. If defendant appears at the hearing on the debt and the judge has reason to believe that the defendant is indigent, he shall inform the defendant that if he is an indigent person he is entitled to services of counsel under G.S. 7A-451, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and provisional release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer. If defendant appears at the hearing on the debt and the judge provisionally concludes he is indigent, counsel should be appointed immediately pursuant to rules adopted by the Office of Indigent Defense Services. (C.C.P., s. 260; Code, s. 447; 1891, c. 541, s. 2; Rev., s. 625; C.S., s. 673; 1947, c. 781; 1977, c. 649, s. 1; 2000-144, s. 14.)